not intend to challenge this particular juror. The court refused. On appeal, it was insisted that this proceeding in effect deprived him of one peremptory challenge. *Held,* that the trial court properly refused to allow an additional challenge. *State* v. *Pettit* (Idaho, 1920), 193 Pac. 1015.

This case adds one more to the list of those decisions repudiating the doctrine laid down in *People* v. *Stewart,* 64 Cal. 60; and followed in *People* v. *Brady,* 72 Cal. 490; *People* v. *Wong Ark,* 96 Cal. 125; *People* v. *Zeiler,* 135 Cal. 462, and *People* v. *Weber,* 149 Cal. 325. The statutory provision construed in the *Stewart* case was identical with that in the instant case, and provides that when a juror was discharged a new juror might be sworn and the *trial begin anew, or* the jury might be discharged and a new jury impaneled. It was held there that the statute allowed additional peremptory challenges. But that case was not well considered. The court assumed that a trial beginning anew means the impaneling of an entirely new jury. Such a construction makes the section of the Code as a whole incongruous, for it places the two alternative provisions on the same plane and gives to each the same scope and meaning. The effect would be to give the accused the election to discharge the whole jury or not, as he saw fit, whereas the Code expressly placed this election with the court. Judged by all the well-recognized rules of construction, the legislature certainly did not intend both alternatives to mean the same thing. The word "trial" in its restricted sense includes the investigation of facts only. *Jenks* v. *State,* 39 Ind. 9. The decision of the *Stewart* case was carefully reviewed in *State* v. *Hazledahle,* 2 N. D. 521, and its unsoundness conclusively pointed out. The North Dakota case was followed in *State* v. *De Weese,* 51 Utah 515, and in *State* v. *Carmouche,* 141 La. 325. Even the later California decisions, while still adhering to the doctrine laid down in the *Stewart* case, intimate that if it were now a question of first impression they would adopt a different construction. The number of peremptory challenges to which a party is entitled is solely a matter of procedure in which a party has no vested right. The legislature, therefore, may increase or diminish the number at will. *Hopt* v. *Utah,* 110 U. S. 574. If, therefore, the statute allows no extra challenges in such situations as that in the instant case it cannot be successfully contended that the right to additional challenges exists. *State* v. *De Weese, supra.* It is submitted that the defendant in any case could be in no worse position, so far as his peremptory challenges were concerned, when the new juror was sworn on his *voir dire* than he would have been if the juror had not been discharged and he had exhausted all his challenges before the last juror was called into the box.

JURY—WOMEN AS JURORS—WOMAN'S SUFFRAGE AMENDMENT.—Defendant, who was convicted on a charge of larceny by a jury of eleven men and one woman, had on the trial first exhausted his peremptory challenges and then challenged the woman juror for cause on the ground that a woman was prohibited from sitting as a juror by the state constitution, in which reference to a jury of "men" was made. *Held,* that the woman in question was

a properly qualified juror under the constitution and laws of Michigan. *People* v. *Barltz* (Mich., 1920), 180 N. W. 423.

The court reached this conclusion, largely, on the basis of the general principle of constitutional construction that a constitution should be construed, if its language is appropriate, so that it will accomplish the purpose the people intended it to accomplish. Here the purpose of the amendment was to do away with the distinction between men and women as to being electors. The court concluded that by being thus made an elector a woman was placed in a class which made her eligible for jury duty under the Michigan statute providing that jurors should be selected from among persons having the qualifications of electors. In *Parus* v. *Dist. Court, etc.*, 42 Nev. 229, under a similar constitutional amendment and statute, the court reached a like conclusion in regard to grand jury service. For a contrary view, see the dissenting opinion in that case and the approving comment thereon in 17 MICH. L. REV. 271. See also the older case of *McKinney* v. *State*, 3 Wyo. 719. In the recent case of *In re Grilli*, 179 N. Y. S. 795, an inferior New York court decided that the woman's suffrage amendment in that state did not make women eligible as jurors, since by the statute in force there jury service was dependent on certain age and property qualifications and was not incidental to and a part of suffrage. Perhaps, too, this case might be distinguished from the principal case in that the New York statute expressly provides that a juror shall be "a male citizen," while the Michigan statute merely provides that jurors are to be chosen from among properly qualified electors. In all jurisdictions, however, it seems to be accepted as law that as long as trial by jury as known at common law shall be secured to all and shall remain inviolate, the legislature may fix the qualifications of jurors, even though they make the qualifications different from what they were at common law. So in *Ex parte Eben Mana*, 178 Cal. 213, a California statute authorizing women jurors was held valid.

MASTER AND SERVANT—DUTY TO AID AILING OR INJURED EMPLOYEE.—It was alleged that the plaintiff was an employee of the defendant; that while he was working in the latter's gravel pit he was overcome by the heat and rendered unable to care for himself, and that defendant thereupon placed him in a wagon box, where he was even more exposed to the heat, and left him there unattended for four hours, whereby he was made worse, suffered permanent injury, etc. On demurrer, *held*, the declaration stated a cause of action. *Carey* v. *Davis* (Iowa, 1921), 180 N. W. 889.

The liability was not placed upon any fault of defendant in causing plaintiff's sunstroke. Ordinarily, a mere stranger is under no legal duty to be a good Samaritan. He can "pass by on the other side" and let the injured man die, without legal liability. *Union Pacific R. Co.* v. *Cappier*, 66 Kan. 649; *Griswold* v. *B. & M. Ry. Co.*, 183 Mass. 434. There are statements to the contrary in *Whitesides* v. *Southern Ry. Co.*, 128 N. C. 229, but the case is unsatisfactory as authority. It is stated as the general rule that, aside from special contract, an employer is under no legal duty to furnish medical aid